

Honorable Pamela K. Chen, U.S.D.C.J

United States District Court Eastern District of NY

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East Brooklyn New York 11201

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Docket #23-cv-08327 (PKC)

**RE: CLARIFICATION OF THE PARTIES ON APPEAL and for a
NEW REQUEST FOR EXTENSION OF TIME**

Appellant Michael T. Dolan, Sr.

USBKR Docket #8-23-72809

Michael T. Dolan, Sr. - debtor on Appeal of the U.S. Bankruptcy Court's Order dated 10/26/23 granting an Order to dismiss the Chapter 13 case by the Appellant in favor of the U.S. Trustee – Michael J. Macco.

21st Mortgage Corporation et.,al.- Creditors on a pending motion before the Bankruptcy Court scheduled for a conference on January 9, 2024 at 10:00 a.m., before the Honorable Louis A. Scarcella, U.S.Bkr.C.J.

Your Honor,

Respectfully, I apologize to the Court and all parties involved for my lack of clarity in my papers. I write this letter to clarify this and also request for the extension of time.

U.S.Trustee Michael Macco is the named party for the appeal of the Order dated 10/26/23.

I mistakenly named the servicer 21st Mortgage Corporation and parties who are named in a motion filed in the bankruptcy Court in opposition of the In Rem relief granted on 10/19/23 by the Court that lifted the automatic stay. (Entered on 10/20/23).

Appellant-debtor, is appealing this Order dismissing the Chapter 13 case.

1. Appellant filed the motion for stay pending the appeal on November 7, 2023.
2. Appellant file the appeal of the Court's Order dated 10/26/23, on November 7, 2023.
3. Both the U.S. Trustee and my former attorney Richard Artura sent incomplete dockets did not include October entries and I was unaware of the hearing held by the Court on the U.S. Trustee's motion to dismiss or the Order 10/26/23 until I received by mail a week later. Because of the lack of notice I could not attend.

4. 21st mgt indicated in their papers dated 12/7/23 there is a conference scheduled to be heard by the Honorable Louis A. Scarcella, U.S.B.C.J., on January 9, 2024 at 10:00am.
5. My former attorney Richard Artura, Esq., (as of 10/20/23) has requested to be removed from the case.
6. Both 21st Mortgage Corporation and Richard Artura, Esq., have listed their own and different reasons for the January 9, 2024 Conference. I believe this will be a conference on the Court's ruling of the "In Rem Relief Granted 10/19/23" by the Court, in which I filed an objection to in my motion papers. These were filed in the US Bankruptcy Court on November 7, 2023. As this writing I've not received any information from the Court related to the 1/9/24 conference. If this is to be a conference on the stay, then I am respectfully requesting from this Court, for an "extension of time," to extend the due date for my submission of "my appeal brief" in opposition of the Court's 10/26/24 Order granting the U.S. Attorney's motion to dismiss the Chapter 13 case, until after the January 9, 2024, Conference which is scheduled according to these parties to be held in front of Honorable Louis A. Scarcella in the Bankruptcy Court. The results of this may resolve the U.S. Trustee's Order.
7. In my letter written dated 10/19/23 sent to the Court and docketed on 10/20/23, I listed items of concern to all parties and at that time was unaware of the Court's decisions in other matters as I had not seen or received any information from the docket.
 - i. In the January 9, 2024, conference I hope to explain why the stay should remain.
 - ii. In my appeal of the U.S. Trustee's motion to dismiss granted by the Court, I hope to demonstrate why this Order should be overturned.
8. If the Court denies my request for an extension of time until after the January 9, 2024, conference, then I will submit my appeal brief timely. The Court has explained that I *"...must file my brief within 30-days after the docketing of notice that the record has been transmitted or is available electronically."*
9. According to the Bankruptcy Court Docket:
 - i. The 10/19/23 Order granting In Rem Relief to 21st Mortgage was entered on 10/20/23.
 - ii. The 10/26/23 Order dismissing the Chapter 13 case was entered on 10/26/23.
10. On 11/7/23 Appellant-debtor, pro se, filed a "Motion to Stay Pending Appeal" in the U.S. Bankruptcy Court, naming 21st Mortgage Corporation et.al., Appellee-Creditors instead of as Creditors.

11. On 11/7/23 Appellant-debtor, pro se, filed an appeal of the October 26, 2023, Order, that dismissed the Chapter 13 case. Appellant failed to properly name the U.S. Trustee, Michael J. Macco, as the Appellee on the appeal. The 10/26/23 Court Order was attached to the appeal papers.
12. The Court will determine whether the motion and/or the appeal are timely filed. I believe they both are. And in support, have attached the following as Exhibits I & II.

I.

The first Order was entered on the docket on 10/20/23 not 10/19/23. And I filed my appeal on 11/7/23. Was this correct and why?

Searching for: bankruptcy appeal deadline calculation

Generating answers for you...

If the first order was entered on 10/20/23, then you filed your appeal on time. Here is why:

- The rule is that you have 14 days from the date of entry of the order to file your appeal, plus one extra day if the deadline falls on a weekend or holiday¹.
- You add 14 days to 10/20/23, and you get 11/3/23. This is the normal deadline to file your appeal.
- However, 11/3/23 was a federal holiday (Veterans Day). Therefore, you add one day to 11/3/23, and you get 11/4/23. This is the adjusted deadline to file your appeal.
- You filed your appeal on 11/7/23, which was before 11/10/23. The rule is that you can file your appeal anytime within the 14-day period, plus one extra day, which means that you could file your appeal as late as 11/10/23, which was 14 days plus one day after 11/3/23.
- Therefore, you filed your appeal on time, and you did not miss the deadline.

I hope this helps you understand the deadline. Please note that this is not legal advice, and you should consult a qualified attorney for your specific case. I hope this helps you understand the deadline. 😊

Learn more:

[1. law.cornell.edu](http://1.law.cornell.edu)[2. ohsb.uscourts.gov](http://2.ohsb.uscourts.gov)[3. federalrulesofbankruptcyprocedure.org](http://3.federalrulesofbankruptcyprocedure.org)[4. pbwt.com](http://4.pbwt.com)+1 more

II.

Could you show the rules used for your calculations??

Searching for: federal rules of bankruptcy procedure appeal deadline

Generating answers for you...

Sure, I can show you the rules that I used for my calculations. Here are the main rules that apply to your case:

- Rule 8002 (a) (1) of the Federal Rules of Bankruptcy Procedure states that a notice of appeal must be filed with the bankruptcy clerk within 14 days after entry of the judgment, order, or decree being appealed¹.
- Rule 9006 (a) (1) of the Federal Rules of Bankruptcy Procedure explains how to compute the 14-day period, and states that you count every day, including weekends and holidays, but if the last day is a weekend or holiday, the period continues to run until the end of the next day that is not a weekend or holiday².
- Rule 9006 (a) (6) of the Federal Rules of Bankruptcy Procedure defines a legal holiday as the day set aside by statute for observing certain holidays, including Veterans Day, and any other day that the clerk's office is inaccessible².

You can find the full text of these rules in the web search results that I have provided³⁴. I hope this helps you understand the rules that I used for my calculations. 😊

Please note that this is not legal advice, and you should consult a qualified attorney for your specific case. I hope this helps you understand the rules. 😊 Learn more:

[1. law.cornell.edu](http://1.law.cornell.edu)[2. law.cornell.edu](http://2.law.cornell.edu)[3. federalrulesofbankruptcyprocedure.org](http://3.federalrulesofbankruptcyprocedure.org)[4. justice.gov](http://4.justice.gov)

13. Appellant opposes Appellee's 12/7/23 motion to correct the record on appeal and to strike documents improperly designated as part of the record on appeal. Appellant believes this is premature and there is nothing that has to be corrected.
14. Appellant-debtor believes he served the parties and all papers in a timely manner.

Thank you.

Sincerely,

X Michael T. Dolan, Sr.

Michael T. Dolan, Sr. – Appellant-Debtor, pro se,
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15. These papers will be filed on the system for U.S. District Court for the Eastern District of NY.

Service for these Parties from: **Docket No.8-23-72809 – In Re Michael T. Dolan, Sr.**

U.S. Bankruptcy Court Eastern District NY
Honorable Louis A Scarcella
Docket No.8-23-72809 – In Re Michael T. Dolan, Sr.

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